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## UNITED STATES DISTRICT COURT

## DISTRICT OF NEVADA

BLUE SUNSETS, LLC and JENCESS  
SOFTWARE & TECHNOLOGIES, INC.,

Plaintiffs,

v.

MYKALAI KONTILAI aka MICHAEL CONTILE  
and COLLECTORS COFFEE, INC dba  
COLLECTORS CAFE,

Defendants.

Case No. 2:17-cv-01418-JAD-CWH

**MOTION FOR LEAVE TO FILE  
UNDER SEAL NOTICE OF  
DEFENDANTS' EMERGENCY  
MOTION FOR TEMPORARY  
RESTRAINING ORDER AND  
MOTION TO CONSOLIDATE**

FILED UNDER SEAL

Pursuant to Local Rule ("LR") 10-5, Defendants COLLECTORS COFFEE, INC dba  
 COLLECTORS CAFE *et al.* move this Court to file under seal Defendants' Notice of  
 Defendants' Emergency Motion for Temporary Restraining Order and Motion to Consolidate  
 ("Notice"). The Notice advises the Court of the Emergency Motion for Temporary Restraining  
 Order and Motion to Consolidate filed in Case No. 2:17-cv-01252-JCM-PAL (the "1252  
 Case"). The Notice is advisory to the Court and does not request any relief from the Court. As  
 sealing is requested in the 1252 Case, this Court should seal the Notice and the attachment until,  
 at least, Judge Mahan takes action on the pending motion in the 1252 Case. This motion to seal

1 is based upon the pleadings and papers on file herein and the following memorandum of points  
2 and authorities.

### 3 **1. Introduction.**

4 Defendant Collector Coffee, Inc. (“Collectors Coffee”) and Plaintiffs entered into  
5 written agreements (“Agreements”) wherein Plaintiffs agreed that all business information that  
6 Collectors Coffee disclosed to Plaintiffs would remain confidential given Collectors Coffee’s  
7 unique and proprietary business model. The business model contained exclusive intellectual  
8 property, and Collectors Coffee closely protected its rights and interests due to the nature of its  
9 business. Defendants’ Notice of Defendants’ Emergency Motion for Temporary Restraining  
10 Order and Motion to Consolidate was filed in Case No. 2:17-cv-01252-JCM-PAL (“Notice”) with  
11 sealing requested and notifies this Court that Defendants moved Judge Mahan (in the 1252  
12 Case) to enjoin Plaintiffs from violating the confidentiality provisions of the Agreements and  
13 consolidate the case *sub judice* with the 1252 Case. Out of necessity, the Notice filed with this  
14 Court in this case discusses Collectors Coffee’s confidential information and how Plaintiffs  
15 have disclosed the confidential information. So too does the exhibit attached to the Notice.  
16

17 Accordingly, Defendants seeks to file under seal pursuant to LR 10-5 Defendants’  
18 Notice of Defendants’ Emergency Motion for Temporary Restraining Order and Motion to  
19 Consolidate filed in Case No. 2:17-cv-01252-JCM-PAL and attachments.  
20  
21

### 22 **2. Legal standard.**

23 Protective orders and filings under seal are “the primary means by which the courts  
24 ensure full disclosure of relevant information, while still preserving the parties’ (and third  
25 parties’) legitimate expectation that confidential business information, proprietary technology  
26 and trade secrets will not be publicly disseminated.” *In re Adobe Sys., Inc., Sec. Litig.*, 141  
27  
28

1 F.R.D. 155, 161–62 (N.D. Cal. 1992). The party seeking to seal documents attached to a non-  
 2 dispositive motion must only demonstrate “good cause,” as opposed to the “compelling  
 3 reasons” standard for documents attached to dispositive motions because “the cognizable public  
 4 interest in judicial records that underlies the compelling reasons standard does not exist for  
 5 documents produced between private litigants.” *Golden Boy Promotions, Inc. v. Top Rank, Inc.*,  
 6 No. 10-CV-01619-RLH, 2011 WL 686362, at \*1 (D. Nev. Feb. 17, 2011).

8 Additionally, when a district court grants a protective order to seal documents during  
 9 discovery, “it already has determined that good cause exists to protect this information from  
 10 being disclosed to the public by balancing the needs for discovery against the need for  
 11 confidentiality.” *Phillips v. General Motors Corp.*, 307 F.3d 1206, 1213 (9th Cir. 2002).  
 12 Further, a court may order the sealing of court records when they contain confidential or  
 13 otherwise sensitive business information. *IMAX Corp. v. Cinema Tech., Inc.*, 152 F.3d 1161,  
 14 1168 (9th Cir. 1998) (noting that confidential and proprietary business information is “to be  
 15 filed under seal.”); *In re Dual-Deck Video Cassette Recorder Antitrust Litig.*, 10 F.3d 693, 694  
 16 (9th Cir. 1993) (stating that it “is common now in business litigation” to seal confidential  
 17 business information by a stipulated protective order).

### 20 **3. Legal argument.**

21 Here, good cause exists for allowing Defendant to file the Notice under seal. Simply  
 22 put, Defendant needs to protect its highly sensitive and confidential business model and  
 23 proprietary business information and has requested that relief in the 1252 Case.

25 Pursuant to LR 10-5(d) and LR 4-1(c), contemporaneously with the filing of this  
 26 Motion, Defendant will file the Notice of Emergency Motion for Temporary Restraining Order  
 27  
 28

1 and Motion to Consolidate marked “Filed Under Seal” and serve paper and electronic copies on  
2 Plaintiffs, in addition to delivering a paper copy to this Court.

3  
4 **4. Conclusion.**

5 For the foregoing reasons, this Court should enter an order sealing Defendants’ Notice  
6 of Defendants’ Emergency Motion for Temporary Restraining Order and Motion to Consolidate  
7 filed in Case No. 2:17-cv-01252-JCM-PAL.  
8

9 DATED this 30<sup>th</sup> day of May 2017.

10 HUTCHISON & STEFFEN, LLC

11 */s/ Robert Stewart*

12  
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**CERTIFICATE OF SERVICE**

Pursuant to FRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN, LLC and that on this 30<sup>th</sup> day of May, 2017, I caused the above and foregoing document entitled **MOTION FOR LEAVE TO FILE UNDER SEAL NOTICE OF DEFENDANTS' EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND MOTION TO CONSOLIDATE** to be served by:

- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or
- ☐ to be served via facsimile; and/or
- ☐ pursuant to the Court's electronic filing system; and/or
- X to be hand-delivered; and/or
- X to be emailed;

to the attorneys/parties listed below at the address and/or facsimile number indicated below:

Don Springmeyer, Esq.  
Jordan Butler, Esq.  
WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP  
3556 E. Russell Road, Second Floor  
Las Vegas, NV 89120

and by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada to the attorneys/parties listed below at the address and/or facsimile number indicated below:

Timothy J. Dennin, Esq.  
(Pro Hac Vice to be Submitted)  
TIMOTHY J. DENNIN, P.C.  
316 Main Street  
Northport, NY 11768

*Attorneys for Plaintiffs*

*/s/ Suzanne Morehead*

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An employee of Hutchison & Steffen, LLC